

victim of domestic violence under the FVO, as described at § 260.52(c).

Victim of domestic violence means an individual who is battered or subject to extreme cruelty under the definition at section 408(a)(7)(C)(iii) of the Act.

§ 260.52 What are the basic provisions of the Family Violence Option (FVO)?

Section 402(a)(7) of the Act provides that States electing the FVO certify that they have established and are enforcing standards and procedures to:

(a) Screen and identify individuals receiving TANF and MOE assistance with a history of domestic violence, while maintaining the confidentiality of such individuals;

(b) Refer such individuals to counseling and supportive services; and

(c) Provide waivers, pursuant to a determination of good cause, of normal program requirements to such individuals for so long as necessary in cases where compliance would make it more difficult for such individuals to escape domestic violence or unfairly penalize those who are or have been victimized by such violence or who are at risk of further domestic violence.

§ 260.54 Do States have flexibility to grant good cause domestic violence waivers?

(a) Yes; States have broad flexibility to grant these waivers to victims of domestic violence. For example, they may determine which program requirements to waive and decide how long each waiver might be necessary.

(b) However, if a State wants us to take the waivers that it grants into account in deciding if it has reasonable cause for failing to meet its work participation rates or comply with the five-year limit on Federal assistance, has achieved compliance or made significant progress towards achieving compliance with such requirements during a corrective compliance period, or qualifies for a reduction in its work penalty under § 261.51 of this chapter, the waivers must be federally recognized good cause domestic violence waivers, within the meaning of §§ 260.52(c) and 260.55, and the State must submit the information specified at § 265.9(b)(5) of this chapter on its

strategies and procedures for serving victims of domestic violence and the number of waivers granted.

§ 260.55 What are the additional requirements for Federal recognition of good cause domestic violence waivers?

To be federally recognized, good cause domestic violence waivers must:

(a) Identify the specific program requirements that are being waived;

(b) Be granted appropriately based on need, as determined by an individualized assessment by a person trained in domestic violence and redeterminations no less often than every six months;

(c) Be accompanied by an appropriate services plan that:

(1) Is developed by a person trained in domestic violence;

(2) Reflects the individualized assessment and any revisions indicated by the redetermination; and

(3) To the extent consistent with § 260.52(c), is designed to lead to work.

§ 260.58 What penalty relief is available to a State whose failure to meet the work participation rates is attributable to providing federally recognized good cause domestic violence waivers?

(a)(1) We will determine that a State has reasonable cause if its failure to meet the work participation rates was attributable to federally recognized good cause domestic violence waivers granted to victims of domestic violence.

(2) To receive reasonable cause under the provisions of § 262.5(b) of this chapter, the State must provide evidence that it achieved the applicable rates, except with respect to any individuals who received a federally recognized good cause domestic violence waiver of work participation requirements. In other words, it must demonstrate that it met the applicable rates when such waiver cases are removed from the calculations at §§ 261.22(b) and 261.24(b) of this chapter.

(b)(1) We will reduce a State's penalty based on the degree of noncompliance to the extent that its failure to meet the work participation rates was attributable to federally recognized good cause domestic violence waivers.

§ 260.59

(2) To receive a reduction based on degree of noncompliance under the provisions of §261.51 of this chapter, a State granting federally recognized good cause domestic violence waivers of work participation requirements must demonstrate that it achieved participation rates above the threshold at §261.51(b)(3) of this chapter, when such waiver cases are removed from the calculations at §§261.22(b) and 261.24(b) of this chapter.

(c) We may take federally recognized good cause domestic violence waivers of work requirements into consideration in deciding whether a State has achieved compliance or made significant progress towards achieving compliance in meeting the work participation rates during a corrective compliance period.

(d) To receive the penalty relief specified in paragraphs (a), (b), and (c) of this section, the State must submit the information specified at §265.9(b)(5) of this chapter.

§ 260.59 What penalty relief is available to a State that failed to comply with the five-year limit on Federal assistance because it provided federally recognized good cause domestic violence waivers?

(a)(1) We will determine that a State has reasonable cause if it failed to comply with the five-year limit on Federal assistance because of federally recognized good cause domestic violence waivers granted to victims of domestic violence.

(2) More specifically, to receive reasonable cause under the provisions at §264.3(b) of this chapter, a State must demonstrate that:

(i) It granted federally recognized good cause domestic violence waivers to extend time limits based on the need for continued assistance due to current or past domestic violence or the risk of further domestic violence; and

(ii) When individuals and their families are excluded from the calculation, the percentage of families receiving federally funded assistance for more than 60 months did not exceed 20 percent of the total.

(b) We may take federally recognized good cause domestic violence waivers to extend time limits into consideration in deciding whether a State has

45 CFR Ch. II (10–1–00 Edition)

achieved compliance or made significant progress towards achieving compliance in meeting the five-year limit on Federal assistance during a corrective compliance period.

(c) To receive the penalty relief specified in paragraphs (a) and (b) of this section, the State must submit the information specified at §265.9(b)(5) of this chapter.

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Subpart C—What Special Provisions Apply to States that Were Operating Programs Under Approved Waivers?

§ 260.70 What is the purpose of this subpart?

(a) Under section 415 of the Act, if a State was granted a waiver under section 1115 of the Act and that waiver was in effect on August 22, 1996, the amendments made by PRWORA do not apply for the period of the waiver, to the extent that they are inconsistent with the waiver and the State elects to continue its waiver.

(b) Identification of waiver inconsistencies is relevant for the determination of penalties in three areas:

(1) Under §261.50 of this chapter for failing to meet the work participation rates at part 261 of this chapter;

(2) Under §264.2 of this chapter for failing to comply with the five-year limit on Federal assistance at subpart A of part 264 of this chapter; and

(3) Under §261.54 of this chapter for failing to impose sanctions on individuals who fail to work.

(c) This subpart explains how we will determine waiver inconsistencies and apply them in the penalty determination process for these penalties.

§ 260.71 What definitions apply to this subpart?

(a) *Inconsistent* means that complying with the TANF work participation or sanction requirements at section 407 of the Act or the time-limit requirement at section 408(a)(7) of the Act would necessitate that a State change a policy reflected in an approved waiver.

(b) *Waiver* consists of the work participation or time-limit component of the State's demonstration project